No. 295

JOINT APPENDIX

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IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12,975

ASSOCIATION OF LITHUANIAN WORKERS,
Appellant,

v.

HERBERT BROWNELL, JR., Attorney General of the United States, *Appellee.*

Appeal From the United States District Court for the District of Columbia

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Appeal From the United States District Court for the District of Columbia

JOINT APPENDIX

Filed Feb. 1, 1954

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 406-54

ASSOCIATION OF LITHUANIAN WORKERS, 110-04 Atlantic Avenue, Richmond Hill, New York, *Plaintiff*,

v.

HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES, Department of Justice, Washington, D. C., *Defendant*.

Complaint for Injunctive Relief

The plaintiff, Association of Lithuanian Workers, by its attorneys, complaining of the defendant, alleges:

1. The Court has jurisdiction of this action under D. C. Code, sections 11-305 and 11-306.

2. The plaintiff, Association of Lithuanian Workers, is a fraternal benefit society, incorporated under the laws of the State of New York. It received its preliminary certificate of authority pursuant to Article 7 of the New York Insurance Law on November 5, 1930 and its final certificate of authority on July 7, 1931.

3. The defendant, Herbert Brownell, Jr., is the Attorney General of the United States. He has his principal office, and may be found, in the District of Columbia.

4. The purposes and objects of the plaintiff are those set forth in its Constitution and By-Laws, as follows:

(a) To unite persons of Lithuanian descent, regardless of their political, religious or social beliefs, into one fraternal body; to encourage and to assist members, and their families, who are not yet citizens of the United States to become citizens; to participate in cultural and educational

activities beneficial to members and their families; to promote fraternal relations among the members and to render material assistance to those members and their families who are in misfortune by establishing necessary funds for that purpose.

(b) To further the ideals of benevolence and to
2 aid financially those who are dependent upon its members for their maintenance and support, by establishing a disability fund from which payments shall be made to the members during periods of sickness or disability, and also a mortuary insurance fund from which, upon the death of any member in good standing, payments shall be made to the beneficiary named by the member in such an amount as shall be provided for in membership certificates.

(c) To establish and maintain subordinate lodges into which members shall be elected, initiated and admitted in accordance with this Constitution and By-Laws.

5. Plaintiff is governed, and its policies are determined by, its members, acting independently pursuant to democratic provisions of plaintiff's Constitution and By-Laws. Under said Constitution and By-Laws, officers of the plaintiff must be citizens of the United States and are elected by referendum vote of the membership every two years. The officers of plaintiff are: John Gasiunas, President; Joseph J. Mockaitis, Vice President; George Zebrys, Second Vice President; John Siurba, Secretary; Joseph Weiss, Treasurer; Dr. M. D. Palevitch, Chief Medical Examiner; and Alda Orman, Helen N. Yeskevich, and Stanley Kuzmickas, Trustees.

6. Plaintiff operates an insurance program and business for the mutual benefit of its members and their beneficiaries, and not for profit. The plaintiff functions under the lodge system, as defined in Section 451 of the New York Insurance Law, and presently has 167 lodges in 18

states, in nine of which it is duly licensed and in nine of which it is permitted to maintain lodges without license. Application for membership is made through the lodges, and there are presently approximately 7,000 members.

7. Plaintiff's insurance business includes various types of life and disability insurance. Plaintiff's Constitution and By-Laws establishes the terms of its insurance program and the various options and schedule of premium payments. Each member receives an individual policy covering the insurance issued to him. Each member pays monthly dues, which include payment for his insurance benefits plus a nominal amount for general expense. The dues paid for benefits are segregated, placed in the separate benefit accounts, and are used for no other purpose except payment of the respective benefits. The dues paid for expenses are also segregated in a separate expense fund, and are used for no other purpose except for expenses.

8. The plaintiff files, and since its formation has filed, comprehensive annual reports in each of the states in which it holds a license. In addition, periodic examinations of the plaintiff are and have been made by the Insurance Department of the State of New York.

9. The plaintiff is in sound financial condition and no question has ever been raised concerning its financial status or its methods of conducting business. During the 23 years of its existence, the plaintiff has paid out approximately $638,000 in death benefits and approximately $607,000 in sick benefits, or a total of approximately $1,245,000. The face value of life insurance presently carried by its membership amounts to more than $3,000,000. The plaintiff has assets of $1,134,000, more than $300,000 in excess of legal requirements and in the ratio of 134% to liabilities.

10. In connection with its insurance business, the plaintiff arranges for lectures to its members and has dis-

tributed pamphlets and articles to its members on subjects of health comparable to similar activities of commercial insurance companies. The plaintiff and its lodges also conduct occasional recreational and sporting events for its members, like bowling and golf tournaments. During World War II, the plaintiff raised $350,000 in voluntary contributions for the purchase of two bombers for use by the Armed Forces. The plaintiff itself purchased more than $445,000 in war bonds, and conducted campaigns for the purchase of such bonds by its members. More than one thousand of the plaintiff's members served in the Armed Forces, twenty of whom were killed in action.

11. Executive Order 10450, issued by the President in April, 1953, establishes "security requirements for government employment." Executive Order 10450 requires the head of each federal department and agency to establish and maintain "an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security". It also provides that, "the interests of the
4 national security require that all persons privileged to be employed in the departments and agencies of the Government shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States."

12. Executive Order 9835 issued March 21, 1947, had required the Department of Justice to furnish to the Loyalty Review Board, for use in the administration of the government employees loyalty program, the names of organizations designated by the Attorney General, after appropriate investigation and determination, "as totalitarian, fascist, communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking

to alter the form of government of the United States, or as seeking to alter the form of government of the United States by unconstitutional means." Executive Order 10450 provides that the Department of Justice shall continue to furnish this information, but directly to the head of each department and agency.

13. Under Executive Orders 10450 and 9835 and their application, membership in, or affiliation or sympathetic association with, an organization designated by the Attorney General as aforesaid, adversely affects the eligibility of any person for federal employment under the aforementioned standards of Executive Order 10450.

14. Designation of an organization by the Attorney General under Executive Orders 9835 or 10450 seriously injures the reputation, business, and prestige of the organization and its ability to obtain or retain members and revenue. Various governmental sanctions apply to members of such an organization even though they are not government employees or applicants for government employment. By the Act of July 5, 1952, the Independent Offices Appropriation Act, 1953, no housing unit constructed under the United States Housing Act of 1937, as amended, may be occupied by a person who is a member of an organization so designated. Also various state and local governments have adopted legislation imposing special sanctions on members of such organizations or depriving them of rights and privileges which would otherwise be available to them.

5 15. On May 4, 1953, the plaintiff received a letter from the defendant dated April 29, 1953, stating that the defendant proposed to designate the plaintiff "as coming within the purview of Executive Orders No. 9835 and No. 10450."

16. Under regulations issued by the defendant, an organization served with notice of the Attorney General's proposal to designate it under Executive Orders 9835 and

10450 may file a notice with the defendant that it desires to contest such designation. Under the regulations, an organization which files a notice of contest may obtain an administrative hearing on the proposal. The regulations provide that failure to file such a notice "shall be deemed an acquiescence" in the proposed action. On or about May 8, 1953, plaintiff duly filed with the defendant a notice of contest.

17. On July 13, 1953, the plaintiff received from the defendant a statement, dated July 8, 1953, of the grounds upon which the defendant proposed to designate the plaintiff as aforesaid, together with twenty-three interrogatories, each of them containing at least two distinct questions or requests for information. The purport of the statement of grounds is that the plaintiff was organized and has functioned under the direction, control and influence of the Communist Party and of members thereof.

18. Said statement of grounds is vague, indefinite, and couched in general and all-embracing language. It does not give plaintiff adequate notice of the charges against it and does not enable plaintiff to adequately defend itself. Plaintiff could answer or offer evidence in defense of the charges only by assembling and offering the most detailed facts concerning every conceivable aspect of its activities for the period of twenty-three years of existence, including facts relating to past and present members, officers and employees, and to every other person with whom plaintiff has had dealings or relationships, no matter how ephemeral, insignificant, or indirect, including facts which plaintiff cannot be reasonably expected to know and which it cannot be reasonably expected to be able to ascertain even with the most intensive effort.

6 19. The aforesaid interrogatories would require the plaintiff to furnish an immense mass of detailed information and data, much of it obscurely defined, much of it patently unavailable to plaintiff and unobtainable, and

virtually all of it of no possible relevance. It would entail a huge and expensive burden for plaintiff to obtain and compile so much of the information requested as is possible to obtain. The thrust and effect of the statement of grounds and interrogatories are to make it impossible for plaintiff to answer the statement and interrogatories, and to lay an artificial foundation for the defendant to hold plaintiff in default and deny it the hearing which the defendant's regulations purport to make available.

20. On or about September 8, 1953, the plaintiff wrote defendant, making objections to the defendant's interrogatories and to the rules of procedure established by the defendant's regulations. The defendant did not reply to this letter.

21. Thereafter, plaintiff retained counsel. On October 4, 1953, plaintiff's counsel wrote the defendant, pointing out the improper and illegal nature of the interrogatories and the impossibility of answering them. Plaintiff's counsel also stated in this letter that the plaintiff desired a hearing, but that the hearing should not be conditioned on answering interrogatories other than the first three, and that the hearing should conform to the requirements of due process. Counsel asked that the defendant withdraw all but the first three interrogatories, and that he accord a hearing in which plaintiff would be advised of the witnesses and testimony against it, have the opportunity to cross-examine witnesses and to produce evidence in its own behalf, and that there not be received in the proceeding, as contemplated by defendant's regulations, ex parte evidence, not disclosed to plaintiff nor subject to cross-examination.

22. By letter dated November 25, 1953, the defendant advised plaintiff's counsel that he construed the aforesaid letter of the plaintiff dated September 8, 1953 as a rejection of the opportunity for a hearing, and that
7 counsel's letter could not be recognized as a request

for a hearing because it was not timely and was not signed by the executive officers of the plaintiff. The construction of plaintiff's letter which defendant claimed he made was arbitrary, unfounded, and irrational.

23. By letter dated December 4, 1953, counsel for the plaintiff replied to the defendant's letter of November 25, 1953, stating that the plaintiff's said letter of September 8, 1953, did not, expressly or by implication, reject a hearing, and renewing his request for the withdrawal of said interrogatories and his request for a hearing. The defendant did not reply to this letter of December 4, 1953.

24. On January 22, 1954, the defendant, without notice or hearing, summarily designated plaintiff as an organization within the purview of Executive Orders 10450 and 9835. The defendant did not even notify plaintiff of this action, and plaintiff first learned about it as a result of a phone call made by its counsel to the Department of Justice.

25. The defendant's designation of the plaintiff as an organization under Executive Orders 10450 and 9835 is contrary to fact and without foundation. The plaintiff is not an organization of any of the kinds referred to in Executive Orders 10450 and 9835.

26. The defendant's designation of the plaintiff under Executive Orders 10450 and 9835 is illegal in the following respects:

(a) It was made without notice and hearing, in violation of the due process clause of the Fifth Amendment, the Administrative Procedure Act, and the defendant's own regulations.

(b) The provisions of Executive Orders 10450 and 9835 relating to designation of organizations, on their face and as applied, violate the First Amendment, in that they authorize and represent a species of governmental censorship of expression and assembly, and permit and are en-

ployed to proscribe organizations on the basis of views and policies.

(c) The provisions of Executive Orders 10450 and 9835, on their face and as applied, violate the due process clause of the Fifth Amendment, in that they authorize and represent the imposition of onerous sanctions and invasion of property rights and right of reputation on the basis of indefinite, subjective, and meaningless criteria, which can be, and are, interpreted to apply merely because of defendant's political, social, or economic prejudices.

(d) The provisions of Executive Orders 10450 and 9835, on their face and as applied, violate the Ninth and Tenth Amendments, in that they authorize and represent the imposition of onerous sanctions for no valid governmental purpose and without reasonable relation to the powers granted to the federal government and the executive under the Constitution.

(e) The provisions of Executive Orders 10450 and 9835, on their face and as applied, violate the prohibition against bills of attainder, in that they authorize and represent the imposition of punishment without judicial trial.

(f) The defendant has violated the Executive Orders in that he has designated the plaintiff without appropriate investigation and determination, and without regard to the fact that the plaintiff is not in fact an organization of any of the kinds described in Executive Orders 10450 and 9835.

(g) The defendant's designation of plaintiff is arbitrary and capricious.

27. The procedures and regulations established by the defendant for the designation of organizations under the Executive Order are illegal and violative of due process, in that:

(a) The regulations authorize the Attorney General to find adversely to an organization merely on his statement of grounds and without introducing evidence, and upon information not of record as to which the accused organization had no opportunity to confront or cross-examine the informant.

(b) The regulations contemplate the application of the vague and indefinite standards of the Executive Orders.

(c) The regulations do not provide that the burden of proof shall be on the Attorney General.

(d) The regulations require the accused organization to submit to unlimited and improper interrogation by the Attorney General as a condition to obtaining a hearing.

(e) The regulations authorize the Attorney General to handpick a hearing officer without regard to qualifications, competency, impartiality, or independence of position.

(f) The regulations violate the provisions of the Administrative Procedure Act governing the conduct of administrative hearings.

28. The illegal designation of the plaintiff under Executive Order 10450 and 9835 has caused, and will increasingly continue to cause, irreparable injury to plaintiff and to plaintiff's members, for which neither the plaintiff nor its members have an adequate remedy at law. Such injury includes damage to the plaintiff's business as a fraternal benefit society and to the plaintiff's reputation, and prestige, loss of present and prospective members, and loss of membership dues. If defendant is not enjoined, the continued injury threatens to destroy plaintiff's very existence.

WHEREFORE, the plaintiff demands judgment (1) enjoining the defendant, his officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with him, from continuing the designation of the plaintiff under Executive Orders 10450 and 9835; (2)

requiring the defendant to notify all federal departments and agencies and the public that such designation of plaintiff is withdrawn; (3) awarding the plaintiff the costs of this action; and (4) granting plaintiff such other and further relief as may be appropriate.

Filed April 2, 1954

Answer

Now comes defendant, and in answer to the complaint, says as follows:

FIRST DEFENSE

1. Answering paragraph 1 of the complaint, defendant denies that the Court has jurisdiction of this action.

2. Answering paragraph 2 of the complaint, defendant admits that plaintiff was duly incorporated under the laws of the State of New York. Except as admitted by the foregoing statement, the allegations of paragraph 2 of the complaint are denied.

3. Answering paragraph 3 of the complaint, defendant admits the allegations contained therein.

4 through 10. Answering paragraphs 4 through 10 of the complaint, defendant, upon information and belief, admits that the Constitution and By-Laws of plaintiff set forth as alleged objects of plaintiff those listed in paragraph 4 of the complaint; that said Constitution and By-Laws set forth provisions that officers of plaintiff must be citizens of the United States and must be elected by vote of the membership every two years; that the officers of plaintiff are those listed in paragraph 5 of the complaint; that plaintiff, among its other activities, operates an in-
11 surance program and business under the lodge system as defined in Section 451 of the New York Insurance Law; that the Constitution and By-Laws of plaintiff and the New York Insurance Law make provision

for, among other things, various options and schedules of premium payments, issuance of individual policies, payment of monthly dues used in part for insurance benefits, and separation of part of the monthly dues in various benefit accounts; that plaintiff has or recently has had 167 lodges, more or less, and 7,000 members, more or less, in 18 states, and has or recently has had assets of $1,134,000, more or less; that plaintiff is required by the State of New York to submit to periodic fiscal examinations of its insurance program, and is required by New York and other states in which it is licensed to file annual reports which show, among other things, amount of death benefits and sick benefits paid out and face value of life insurance carried by members of plaintiff.

And, notwithstanding the above admissions, defendant, upon information and belief, avers that: (1) prior to or during 1930, the Communist Party of the United States of America (hereinafter referred to as Communist Party—U.S.A.) received orders from Moscow to capture control of or destroy as many organizations in America as possible; that (2) as a result of action taken pursuant to such orders there was a split between the anti-Communist and pro-Communist factions at the National Convention of the Lithuanian Alliance of America held at Chicago, Illinois, in 1930; that (3) as a result of said split plaintiff organization (also known as the Lietuvia Darbiniku Susivienijimas and hereinafter referred to as the L.D.S.) was formed by persons who were members of, affiliated with, or sympathetically associated with the Communist Party—U.S.A., that from its initial formation up to and including
the date of this statement the L.D.S. has (4) consti-
12 tuted a vehicle to further the aims, policies and objectives of the Communist Party—U.S.A., operating as an instrument to promote affairs and functions designed to publicize and implement policies of the Communist Party—U.S.A.; (5) been used by the Lithuanian Central Bureau of the Communist Party—U.S.A. as a means to

distribute Communist propaganda through printed material, speakers and other media; (6) functioned and operated under the leadership of persons who were at one time, and are at the time of this statement, members of, affiliated with, or sympathetically associated with the Communist Party—U.S.A. and other groups officially designated by the Attorney General pursuant to Executive Orders 9835 and 10450; (7) permitted determination of its policies by and in collaboration with the Communist Party—U.S.A., its leaders, members and other persons affiliated with or sympathetically associated with the Communist Party—U.S.A.; (8) solicited and accepted, directly or indirectly, the assistance and support of the Communist Party—U.S.A. and persons who are members of, affiliated with, or sympathetically associated with the Communist Party—U.S.A. for its program, activities and functions; (9) conducted, sponsored and co-sponsored and caused to be sponsored, receptions, parties, meetings and similar events for the purpose of carrying out the policies of the Communist Party—U.S.A.; (10) distributed funds realized from affairs and functions and similar events to the Communist Party—U.S.A., its leaders and persons who are members of, affiliated with, or sympathetically associated with the Communist Party—U.S.A., to the *Daily Worker*, and to groups officially designated by the Attorney General pursuant to Executive Orders 9835 and 10450; (11) engaged and invited persons who were members of, affiliated with, or sympathetically associated with the Communist Party—U.S.A. to speak at functions and meetings conducted, sponsored and co-sponsored by plaintiff; (12) published and circulated and caused to be published and circulated,

13 three newspapers, namely, TIESA, VILNIS, and LAISVE which have consistently supported and implemented policies, aims, and objectives of the Communist Party—U.S.A.; and (13) never knowingly deviated in its program and objectives from the program and objectives of the Communist Party—U.S.A.

Except to the extent admitted by the foregoing statements, the allegations of paragraphs 4 through 10 are denied.

11, 12, 13, and 14. Answering paragraphs 11, 12, 13 and 14 of the complaint, defendant says that Executive Order 9835, appearing at 12 F.R. 1935 as amended by 16 F.R. 3690; and Executive Order 10450, appearing at 18 F.R. 2489; and the Acts of July 5, 1952 and July 31, 1953, appearing at 42 U.S.C. 1411(c) speak for themselves, and respectfully refers the Court to said Orders and Acts for the full meaning, purport and effect thereof.

Except as admitted by the foregoing statement, the allegations of paragraphs 11, 12, 13 and 14 of the complaint are denied.

15. Answering paragraph 15 of the complaint, defendant admits that on April 29, 1953, there was deposited in the United States mails a prepaid, registered letter addressed to plaintiff containing notice of defendant's proposal to designate plaintiff, in accordance with the rules of procedure thereto attached, as an organization coming within the purview of Executive Orders 9835 and 10450. A copy of said letter is annexed to this answer as Exhibit 1, and is expressly made a part hereof. Said letter speaks for itself, and defendant respectfully refers the Court to said letter for the full meaning, purport and effect thereof.

Except to the extent admitted by the foregoing statement, the allegations of paragraph 15 of the complaint are denied.

16. Answering paragraph 16 of the complaint, defendant admits that on April 29, 1953, pursuant to Executive Orders 9835 and 10450, he promulgated certain rules of procedure with respect to Designation of Organizations in Connection with the Federal Employee Security Program. Said rules appear at 18 F.R. 2619, and a copy of said rules is annexed to this answer as Exhibit 2, and is expressly made a part hereof. Defendant says that

said rules speak for themselves, and respectfully refers the Court to said rules for the full meaning, purport and effect thereof.

Further answering paragraph 16 of the complaint, defendant states that on May 11, 1953 he received a registered letter signed by the president and the secretary of plaintiff, indicating that plaintiff proposed to contest the proposed designation. A copy of said letter is annexed to this answer as Exhibit 3, and is expressly made a part hereof. Said letter speaks for itself, and defendant respectfully refers the Court to said letter for the full meaning, purport and effect thereof.

Except to the extent admitted by the foregoing statements, the allegations of paragraph 16 of the complaint are denied.

17. Answering paragraph 17 of the complaint, defendant admits that on July 8, 1953, there was deposited in the United States mails a prepaid, registered notice addressed to plaintiff containing a Statement of Grounds and also Interrogatories. A copy of said Statement of Grounds and Interrogatories is annexed to this answer as Exhibit 4, and is expressly made a part hereof. Said Statement of Grounds and Interrogatories speak for themselves, and defendant respecfully refers the Court to said Statement and Interrogatories for the full meaning, purport and effect thereof.

Except as admitted by the foregoing statement, the allegations of paragraph 17 of the complaint are denied.

18 and 19. Answering paragraphs 18 and 19 of the complaint, defendant denies each and every allegation contained therein.

20. Answering paragraph 20 of the complaint, defendant admits that on September 9, 1953, he received a letter signed by the president and secretary of plaintiff, a copy of which is annexed to this answer as

Exhibit 5, and is expressly made a part hereof. Said letter speaks for itself, and defendant respectfully refers the Court to said letter for the full meaning, purport and effect thereof.

Further answering paragraph 20 of the complaint, defendant avers that said letter failed to comply with Section 41.3—Reply by Organization of the rules of procedure with respect to Designation of Organizations in Connection with the Federal Employee Security Program and did not constitute a reply to the Statement of Grounds and Interrogatories within the meaning of said rules, in that said letter, within the meaning of that section, (a) was not verified, (b) did not answer each interrogatory completely, and with particularity, and (c) was not limited to a statement of facts; and that by such failure to file such reply within said Section 41.3 of said rules of procedure, plaintiff has acquiesced in the proposed designation.

Further answering paragraph 20 of the complaint, defendant avers that, irrespective of the foregoing statement, said letter, within the meaning of Section 41.3 of said rules of procedure, failed to answer any interrogatory or any part thereof or submitted evasive replies to said interrogatories and said letter, therefore, constitutes an admission of the truth of the facts to which said interrogatories refer.

Further answering paragraph 20 of the complaint, defendant avers that said letter, within the meaning of Section 41.4—Request for Hearing of said rules of procedure, did not constitute a request for a hearing.

Except to the extent admitted by the foregoing statements, the allegations of paragraph 20 of the complaint are denied.

21. Answering paragraph 21 of the complaint, defendant admits that on October 7, 1953, he received a letter
16 signed by Harold I. Cammer, a copy of which is annexed to this answer as Exhibit 6 and is expressly made a part hereof. Said letter speaks for itself, and de-

fendant respectfully refers the Court to said letter for the full meaning, purport and effect thereof.

Except to the extent admitted by the foregoing statement, the allegations of paragraph 21 of the complaint are denied.

22. Answering paragraph 22 of the complaint, defendant admits that on November 25, 1953, there was deposited in the United States mails, addressed to Harold I. Cammer, a letter, a copy of which is annexed to this answer as Exhibit 7, and expressly made a part hereof. Said letter speaks for itself, and defendant respectfully refers the Court to said letter for the full meaning, purport and effect thereof.

Further answering paragraph 22 of the complaint, defendant avers that the letter received on October 7, 1953 and signed by Harold I. Cammer fails to comply with Section 41.3—Reply by Organization, and Section 41.4—Request for Hearing, of the rules of procedure with respect to Designation of Organizations in Connection with the Federal Emplcyee Security Program, for reasons set forth in the averments contained in paragraph 20 of this answer, and defendant realleges each and every one of such averments.

Further answering paragraph 22 of the complaint, defendant avers that the letter dated October 4, 1953 and signed by Harold I. Cammer fails to comply with said Sections 41.3 and 41.4 of said rules of procedure in that letter, within the meaning of said rules of procedure, (a) was not filed within sixty (60) days following receipt of the Statement of Grounds and Interrogatories, and (b) was not signed by the executive officers, or persons performing the ordinary and usual duties of executives officers, of plaintiff.

Except to the extent admitted by the foregoing statements, the allegations of paragraph 22 of the complaint are denied.

17 23. Answering paragraph 23 of the complaint, defendant says that he is not required to answer paragraph 23 because the allegations therein are immaterial, but if required to answer, admits the allegations contained therein.

24. Answering the first sentence of paragraph 24 of the complaint, defendant admits that on January 22, 1954, he designated plaintiff as an organization pursuant to Executive Orders 9835 and 10450.

Answering the second sentence of paragraph 24 of the complaint, defendant avers that notice of such designation was given by publication in the Federal Register on February 4, 1954, being found at 24 F.R. 655.

Defendant states that he is without knowledge or information sufficient to state whether or not plaintiff first learned about its designation as a result of a telephone call made by its counsel to the Department of Justice.

Except to the extent admitted by the foregoing statements, the allegations of paragraph 24 of the complaint are denied.

25. Answering paragraph 25 of the complaint, defendant denies each and every allegation contained therein.

26, 27 and 28. Answering paragraphs 26, 27 and 28 of the complaint, defendant says that he is not required to answer the allegations contained therein for the reasons that they are wholly argumentative and state merely conclusions of law and/or fact, but if required to answer, denies each and every one of said allegations.

Second Defense

Plaintiff's failure to avail itself of the opportunity to obtain a full administrative hearing precludes this Court from granting relief.

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Third Defense

The Court is without jurisdiction in that plaintiff has failed to exhaust its administrative remedy.

Fourth Defense

The public interest requires that in a balancing of the equities involved the relief sought by plaintiff be denied.

Fifth Defense

The complaint does not present a justiciable controversy over which the Court has jurisdiction.

Sixth Defense

The Court is without jurisdiction of the subject matter of this action in that plaintiff seeks to subject to judicial review executive action which is committed by law to the sole and exclusive discretion of the executive.

Seventh Defense

The complaint fails to state a claim against defendant upon which relief can be granted.

Wherefore, defendant prays that the complaint be dismissed in all respects with costs to the defendant.

Exhibit 1

20 Filed April 2, 1954

April 29, 1953

Registered—Return
Receipt Requested

Association of Lithuanian Workers
110-04 Atlantic Avenue
Richmond Hills 19, New York

Sirs:

Notice is hereby given that the Attorney General proposes to designate the Association of Lithuanian Workers as coming within the purview of Executive Orders No. 9835 and No. 10450 in accordance with the rules promulgated thereunder, a copy of which is attached hereto.

For the Attorney General

WARREN OLNEY III
Assistant Attorney General

Enclosure No. 27613

Exhibit 3

Filed April 2, 1954

ASSOCIATION OF LITHUANIAN WORKERS
LIETUVIU DARBININKU SUSIVIENIJIMAS

110-04 Atlantic Avenue
Richmond Hill 19, N. Y.

Phone VIrginia 9-3692

May 8, 1953

Hon. Warren Olney III
Assistant Attorney General
United States Department of Justice
Washington 25, D. C.

Dear Sir:

We hereby acknowledge receipt of your letter dated April 29th, 1953 giving the Association of Lithuanian Workers notice that the Attorney General proposes to designate said Association as coming within the purview of Executive Orders No. 9835 and No. 10450.

Pursuant to Section 41.1(b), this is to give you notice that the Association of Lithuanian Workers desires to contest such designation.

Very truly yours,

ASSOCIATION OF LITHUANIAN WORKERS

/s/ JOHN GASIUNAS *President*
John Gasiunas

/s/ JOHN SIURBA *Secretary*
John Siurba

Registered Return Receipt Requested

Exhibit 4

26 Filed April 2, 1954

IN THE MATTER OF THE PROPOSED DESIGNATION OF ASSOCIATION OF LITHUANIAN WORKERS PURSUANT TO EXECUTIVE ORDER 10450

TO: ASSOCIATION OF LITHUANIAN WORKERS

PLEASE TAKE NOTICE that pursuant to Title 28, Chapter I, Part 41, Section 41.1 et seq. of the Code of Federal Regulations with respect to notice, hearing, and designation of organizations in connection with the Federal employee security program, there are set forth hereinafter a statement of the grounds upon which it is proposed to designate Association of Lithuanian Workers as coming within the purview of Executive Order No. 10450, and interrogatories with respect thereto.

STATEMENT OF GROUNDS

(1) Prior to or during 1930, the Communist Party of the United States of America (hereinafter referred to as the Communist Party—U.S.A.) received orders from Moscow to capture control of or destroy as many organizations in America as possible.

(2) As a result of action taken pursuant to said orders, there was a split between the anti-Communist and pro-Communist factions at the National Convention of the Lithuanian Alliance of America held at Chicago, Illinois in 1930.

(3) As a result of said split at the National Convention of the Lithuanian Alliance in 1930, the organization known as the Association of Lithuanian
27 Workers and also known as the Lietuviu Darbininku Susivienijimas (both hereinafter referred to as L.D.S.) was formed by persons who were members of, affiliated and sympathetically associated with the Communist Party—U.S.A.

(4) The L.D.S. was incorporated in the State of New York on or about October 14, 1930 to commence business on or about November 1, 1930 for the alleged and ostensible purpose of providing sick and death insurance benefits to its members.

(5) The national headquarters for the L.D.S. has been and is located in New York City, and the L.D.S. maintains lodges and branches in many of the other principal cities in the United States.

(6) From its initial formation, up to and including the date of this statement, the L.D.S. has constituted a vehicle to further the aims, policies and objectives of the Communist Party—U.S.A., operating at all times as an instrument to promote affairs and functions designed to publicize and implement policies of the Communist Party—U.S.A.

(7) From its initial formation, up to and including the date of this statement, the L.D.S. has been used by the Lithuanian Central Bureau of the Communist Party—U.S.A. as a means to distribute Communist propaganda through printed material, speakers and other media.

(8) From its initial formation, up to and including the date of this statement, the L.D.S. has functioned and operated under the leadership of persons who were at one time, and are presently, members of, affiliated and
28 sympathetically associated with the Communist Party—U.S.A. and other groups officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835

(9) From its initial formation, up to and including the date of this statement, the policies of the L.D.S. have been determined by and in collaboration with the Communist Party—U.S.A., its leaders, members and other persons affiliated and sympathetically associated with the Communist Party—U.S.A.

(10) From its initial formation, up to and including the date of this statement, the L.D.S. has solicited and accepted, directly or indirectly, the assistance and support of the Communist Party—U.S.A. and persons who are members of, affiliated and sypathetically associated with the Communist Party—U.S.A. for its program, activities and functions.

(11) From its intial formation, up to and including the date of this statement, the L.D.S. has conducted, sponsored and co-sponsored and caused to be conducted, sponsored and co-sponsored receptions, parties, meetings and similar events for the purpose of carrying out the policies of the Communist Party—U.S.A.

(12) Funds realized from affairs and functions conducted, sponsored and co-sponsored by the L.D.S. have been distributed and caused to be distributed by the L.D.S. to the Communist Party, U.S.A., its leaders and persons who are members of, affiliated and sympathetically associated with the Communist Party—U.S.A., to the *Daily Worker*, and to groups officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835.

29 (13) From its initial formation, up to and including the date of this statement, the L.D.S. has engaged and invited persons who were members of, affiliated and sympathetically associated with the Communist Party —U.S.A., to speak at functions and meetings conducted, sponsored and co-sponsored by the L.D.S.

(14) From its initial formation, up to and including the date of this statement, the L.D.S. has published and circulated and caused to be published and circulated, three newspapers, namely, TIESA, VILNIS, and LAISVE which have consistently supported and implemented policies, aims and objectives of the Communist Party—U.S.A.

(15) From its initial formation, up to and including the date of this statement, the L.D.S. has never knowingly

deviated in its program and objectives from the program and objectives of the Communist Party—U.S.A.

INTERROGATORIES

INTERROGATORY (1)

(a) State the full name of the L.D.S.

(b) State any other names that the L.D.S. may have used or by which it may have been known.

INTERROGATORY (2)

(a) List the address or addresses (number, street, city and State) where the L.D.S., from its inception, and up to and including the date of these interrogatories, has maintained its principal offices or headquarters.

(b) Does the L.D.S. have any lodges, branches or other subdivisions?

(c) If the answer to Interrogatory 2(b) is in the affirmative, list the address or addresses (number, street, city and State) where the respective lodges, branches or other subdivisions have maintained offices or headquarters from their inception up to and including the date of these interrogatories.

INTERROGATORY (3)

(a) Was the L.D.S. ever incorporated?

(b) If the answer to Interrogatory 3(a) is in the affirmative, list the following information:

i. the state of incorporation;
ii. the date of incorporation;
iii. the state or states in which authorized to do business;
iv. the full name under which incorporated;
v. the alleged purpose for which incorporated.

INTERROGATORY (4)

(a) State the circumstances which preceded and eventually led to the formation of the L.D.S. including the events which took place at the National Convention of the Lithuanian Alliance of America in 1930.

(b) List the names and addresses of all those persons responsible for the formation of the L.D.S.

(c) List the names and addresses of all those persons who initially participated in the organization of the L.D.S.

31 (d) List the names and addresses of all those persons present at the initial meeting of the L.D.S.

(e) Have any of those persons listed in answer to Interrogatories 4(b), 4(c) and 4(d) at any time been

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(f) If the answer to Interrogatory 4(e) or any part thereof is in the affirmative list the names and addresses of all such persons and indicate the periods of time during which they were

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835.

(g) State the address (number, street, city and State) where the initial organization meeting of the L.D.S. took

place, and indicate the date of such meeting and by whom such meeting was called.

INTERROGATORY (5)

(a) List the names and addresses of all employees, directors, executive officers and persons performing the ordinary and usual duties of employees, directors and executive officers of the L.D.S. and its various lodges and branches, from its initial formation up to and including the date of these interrogatories, and indicate the inclusive dates during which each of the listed persons held or acted in such capacity.

(b) Have any of the persons listed in answer to Interrogatory 5(a) at any time been

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

32 (c) If the answer to Interrogatory 5(b) or any part thereof is in the affirmative, list the names and addresses of all such persons and indicate the periods during which they were

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835.

INTERROGATORY (6)

(a) List the names and addresses of all those persons who are presently members of the L.D.S.

(b) Have any of those persons listed in answer to Interrogatory 6(a) at any time been

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(c) If the answer to Interrogatory 6(b) or any part thereof is in the affirmative, list the names and addresses of all such persons and indicate the periods during which they were

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835.

INTERROGATORY (7)

(a) List the names and addresses of persons who have, at any time, been engaged or invited to speak or to appear as guests by the L.D.S. and its various lodges and branches or by officials or members of the L.D.S. and its various lodges and branches at any meetings, conventions or other functions that were conducted, sponsored or co-sponsored by the L.D.S. or any of its various lodges or branches.

33 (b) State as to each such person listed, the date and location of the affair to which invited or engaged to speak or appear as a guest.

(c) Have any of those persons listed in answer to Interrogatory 7(a) at any time been

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(d) If the answer to Interrogatory 7(c) or any part thereof is in the affirmative, list the names and addresses of all such persons and indicate the periods of time during which they were

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835.

INTERROGATORY (8)

(a) Has the L.D.S. or any of its various lodges or branches or its officials or members at any time published or circulated or caused to be published or circulated articles, pamphlets, leaflets, newsletters or other printed material?

(b) If the answer to Interrogatory 8(a) is in the affirmative, list the title of each particular item, the date of publication (day, month and year) and enclose copies of each such item listed with the verified reply.

INTERROGATORY (9)

(a) Has the L.D.S. or any of its various lodges and branches, at any time, knowingly deviated in any manner whatsoever from the policies and program of the Communist Party—U.S.A., its leaders and members?

(b) If the answer to Interrogatory 9(a) is in the affirmative, state the particular points and time of any such deviations.

INTERROGATORY (10)

(a) Has the L.D.S. or any of its various lodges and branches or its officials or members at any time received orders, instructions or recommendations, directly or indirectly, from the Communist Party—U.S.A., its leaders or members?

34 (b) If the answer to Interrogatory 10(a) is in the affirmative, describe the orders, instructions or recommendations received and indicate when, by whom and from whom received, and the manner in which acted upon.

INTERROGATORY (11)

(a) Has the L.D.S. or any of its various branches and lodges, or its officials or members at any time received or solicited funds and contributions from the Communist Party—U.S.A., or from persons who at any time were members of or affiliated or sympathetically associated with the Communist Party—U.S.A., or from any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(b) If the answer to Interrogatory 11(a) is in the affirmative, state the amounts received or solicited, when received or solicited, from whom and by whom received or solicited and the purpose for which received or solicited.

INTERROGATORY (12)

(a) Has the L.D.S. or any of its various branches or lodges or its officials or members ever distributed or shared or caused to be distributed or shared any part of any funds received from any source to or with the

Communist Party—U.S.A., or to or with persons who at any time were members of or affiliated or sympathetically associated with the Communist Party—U.S.A., or to or with any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(b) If the answer to Interrogatory 12(a) is in the affirmative, state the amounts so distributed or shared, when distributed or shared, to or with whom distributed or shared, the purpose for which such distribution or sharing was made, and the source of the funds involved.

INTERROGATORY (13)

(a) Have the newspapers *The Worker* and the *Daily Worker* at any time given publicity coverage to the L.D.S. or any of its various lodges and branches?

(b) If the answer to Interrogatory 13(a) is in the affirmative, specify the newspaper and edition, date and page number where the L.D.S. or any of its various lodges and branches are mentioned.

INTERROGATORY (14)

(a) Did the L.D.S. or any of its various lodges or branches or its officials or members promote or sponsor a collection of funds for the defense of the eleven members of the National Committee of the Communist Party—U.S.A. who were convicted in 1949?

(b) If the answer to Interrogatory 14(a) is in the affirmative, state when, where, how, by whom and from whom the funds were collected, the amount collected, and by whom and to whom the funds were paid.

INTERROGATORY (15)

(a) Does the L.D.S. or any of its various lodges or branches own, operate, control, publish or circulate, di-

rectly or indirectly, any newspapers or other publications?

(b) If the answer to Interrogatory 15(a) is in the affirmative give the name and addresses of such publications, the connection between the L.D.S. or any of its various lodges and branches and the publications.

(c) If the answer to Interrogatory 15(a) is in the affirmative, list the names and addresses of each of the members on the staffs of such publications.

(d) Have any of those persons listed in answer to Interrogatory 15(c) at any time been

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(e) If the answer to Interrogatory 15(d) or any part thereof is in the affirmative, list the names and addresses of all such persons and indicate the periods of time during which they were

i. members of
ii. affiliated with
iii. sympathetically associated with

the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835.

(f) Have any of the publications listed under Interrogatory 15(b) at any time knowingly deviated in any manner whatsoever from the policies or program of the Communist Party—U.S.A. or its leaders?

(g) If the answer to Interrogatory 15(f) is in the affirmative, state the particular points and time of such deviations.

36 INTERROGATORY (16)

(a) Has the Lithuanian Central Bureau of the Communist Party U.S.A. at any time sent or delivered books, pamphlets, newspapers or other printed material to the L.D.S. or to any of its various branches or lodges or its officials or members?

(b) If the answer to Interrogatory 16(a) is in the affirmative, indicate the time and place delivered, by whom and to whom delivered, the type of printed material delivered, and the disposition made of such printed material.

(c) Has the Lithuanian Central Bureau of the Communist Party—U.S.A. at any time provided or arranged for speakers or instructors to participate in any affairs or functions conducted, sponsored or co-sponsored by the L.D.S. or any of its various lodges or branches?

(d) If the answer to Interrogatory 16(c) is in the affirmative, indicate the names and addresses of the speakers or instructors, the nature, time and place of the affairs or functions involved, and the subject matter of the speeches or instruction.

(e) List the names of any officials or members of the L.D.S. or any of its various lodges or branches who at any time have made arrangements with or associated with the Lithuanian Central Bureau of the Communist Party—U.S.A. and indicate the time and place, and describe the nature of such arrangements or associations.

INTERROGATORY (17)

(a) Has the L.D.S. or any of its various lodges or branches ever published or circulated or caused to be published or circulated any books, pamphlets, newspapers or other printed material at the request of the Communist Party—U.S.A. or any section, branch or

club thereof or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(b) If the answer to Interrogatory 17(a) is in the affirmative, indicate the time and place of publication or circulation, the nature of the request made, by whom and to whom the request was made, and by whom the request was acted upon and list the titles of each item published and circulated with the date of publication (day, month and year), and enclose copies of each such item listed with the verified reply.

37 INTERROGATORY (18)

(a) Is or was at any time the L.D.S. or any of its various lodges or branches a party to any lease-hold or any other real estate transaction or arrangement with the Communist Party—U.S.A. or any section, branch or club thereof, or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(b) If the answer to Interrogatory 18(a) is in the affirmative, set forth the parties to and the nature and terms of and the date or dates of the lease-hold or other such real estate transaction or arrangement.

(c) Has the L.D.S. or any of its various lodges or branches at any time permitted the Communist Party—U.S.A. or any section, branch or club thereof, or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835 the use of its meeting halls or other property for any purpose?

(d) If the answer to Interrogatory 18(c) is in the affirmative, state the type of use permitted, the time, place and premises involved, and parties arranging the use of such premises, the organization permitted such use, and the purpose for which the premises were used

INTERROGATORY (19)

(a) Did the L.D.S. or any of its various lodges or branches conduct, sponsor, or co-sponsor any celebration or celebrations in honor of the 25th anniversary of the Red Army?

(b) If the answer to Interrogatory 19(a) is in the affirmative, list the place and date of, and describe each such celebration.

INTERROGATORY (20)

(a) State any contact, dealing, communication or other connection, directly or indirectly, between the L.D.S. or its various lodges and branches or its officials or members and the American Lithuanian Workers Literary Association.

(b) Did the L.D.S. or any of its various lodges or branches ever co-sponsor any meetings, rallies, receptions, parties or other affairs or functions with the American Lithuanian Workers Literary Association?

(c) If the answer to Interrogatory 20(b) is in the affirmative, state whether the proceeds from any of these affairs or functions were ever shared with the Communist Party—U.S.A. the *Daily Worker*, or with any group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835.

38 (d) If the answer to Interrogatory 20(c) is in the affirmative, indicate the place, time and nature of the affairs or functions involved, the amount and source of proceeds shared with the Communist Party—U.S.A., the *Daily Worker*, or with any group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835, and by whom on behalf of the L.D.S. and with whom on behalf of the other organizations the arrangements for sharing the proceeds were made.

INTERROGATORY (21)

(a) Have any of those persons listed in answer to Interrogatories 4(b), 4(c), 4(d), 5(a), 6(a), 7(a), 15(c) and 16(d) at any time been employed by or worked for the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(b) If the answer to Interrogatory 21(a) is in the affirmative, list the names and addresses of all such persons, specifying the inclusive dates of employment by the Communist Party—U.S.A. or other groups officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835, of each such person, and describe the function or functions performed during such employment by each person listed.

INTERROGATORY (22)

(a) Has the L.D.S. or any of its various lodges or branches ever expressed the belief that the Soviet Union should control Lithuania?

(b) If the answer to Interrogatory 22(a) is in the affirmative, state the time, place and by whom and in what manner such beliefs were expressed.

INTERROGATORY (23)

(a) Did the Communist Party—U.S.A. or any of its officers or members at any time order, instruct or recommend that any person or group of persons join the L.D.S. or any of its various lodges or branches?

(b) Did the L.D.S. or any of its various lodges or branches or any of its officials or members at any time order, instruct or recommend that any person or group of persons join the Communist Party—U.S.A. or any other group officially designated by the Attorney General pursuant to Executive Orders 10450 and 9835?

(c) If the answer to Interrogatory 23(a) or 23(b) is in the affirmative, indicate the time and place that such orders, instructions or recommendations were made, by whom and to whom made, the content of such orders, instructions or recommendations and the manner in which such orders, instructions or recommendations were acted upon.

39 Your attention is hereby directed to Section 1001 of Title 18 of the United States Code which provides in part that whoever, in any matter within the jurisdiction of any department or agency of the United States, makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

For the Attorney General

WARREN OLNEY III
Assistant Attorney General

July 8, 1953.

Exhibit 5

40 Filed April 2, 1954

ASSOCIATION OF LITHUANIAN WORKERS
LIETUVIU DARBININKU SUSIVIENIJIMAS

110-04 Atlantic Avenue
Richmond Hill 19, N. Y.
Phone VIrginia 9-3692

September 8, 1953

Herbert Brownell, Jr., Esq.
Attorney General of the United States
Department of Justice
Washington, D. C.

Attention: Warren Olney III
Assistant Attorney General

Dear Sir:

We acknowledge receipt of your Statement of Grounds and Interrogatories on which it is proposed to designate the Association of Lithuanian Workers as coming within the purview of Executive Order No. 10450. They have been discussed at a meeting of the General Executive Board of this Association and we are writing you accordingly.

This Association is a fraternal benefit society chartered under Article 7 of the Insurance Law of the State of New York on November 5, 1930. It received its Certificate of Authority to do business from the Superintendent of Insurance of the State of New York on July 7, 1931, and since that time has carried on its business and affairs under the direct supervision of the Superintendent. It is licensed also to do business in several other states throughout the country.

Your basic charge, although expressed in the most general terms, is that the Association is carrying out the policies of the Communist Party.

The Association is not a political organization; it is not carrying out the policies of the Communist Party or of any other party.

The activities of the Association are confined strictly to those of a fraternal insurance beneficial society, as provided by its Charter and its Constitution and By-laws promulgated thereunder. In this connection, it may interest you to know that in January, 1951 the General Executive Board of the Association mailed the following advice to its lodges:

"Our Association, the LDS, is strictly a fraternal, insurance-beneficial organization. Therefore, our Lodges and Districts should act within those limits of ac-
41 tivity as stated in our Constitution. Our chief purpose—the furtherance of fraternalism."

This policy has been reaffirmed by the present General Executive Board of the Association.

The Insurance Department of the State of New York, pursuant to the Insurance Law of that state, periodically examines the records of the Association.

During all of the years of the Association's existence, neither the Insurance Department of the State of New York or of any other state where the Association is licensed to do business has had occasion to indicate that any of its activities is or was in violation of its Charter. The Association's activities have contributed measurably to the welfare and security of its thousands of members and their families.

Your rules and requirements make it impossible for the Association to have a hearing in regards to your proposed listing. For example, you would require the officers, under penalty of perjury, to furnish you with names and

addresses of all of its members and to indicate with respect to each and every one, what his political beliefs, affiliations and "sympathetic" associations" are or ever were. This requirement is, as you must know, impossible to meet. Yet your rules provide that we are not entitled to a hearing unless we first comply with this and other unconstitutional and impossible requirements. As the Association accepts as members persons without regard to their political, religious or social beliefs, we do not have any records of any political affiliations of our members. Therefore, it would be impossible for us to supply you with this information, even if the officers of the Association were prepared to violate its Constitution and By-laws and the non-political principles upon which it is founded.

In addition, your rules for the hearing allow you to make your determination solely on the basis of secret and confidential information which will not be disclosed to us. A proceeding based on such practice is not a hearing in any real or legal sense of the word.

The procedures you have adopted in this matter are unfair and undemocratic and contrary to the laws and traditions of this Nation.

42 In view of the foregoing, we respectfully request that you discontinue this proceeding against the Association. Should you persist in your avowed purpose to list it, the Association will have no alternative except to seek justice in the courts.

Very truly yours,

ASSOCIATION OF LITHUANIAN WORKERS

/s/ JOHN GASIUNAS
John Gasiunas
President

/s/ JOHN SIURBA
John Siurba
Secretary

Exhibit 6

43 Filed April 2, 1954

HAROLD I. CAMMER

Attorney At Law
9 East 40th Street
New York City

Murray Hill 3-6790

October 4, 1953

Herbert Brownell, Jr., Esq.
Attorney General of the United States
Department of Justice
Washington, D. C.

Attn: Warren Olney III
Assistant Attorney General

Re: Association of Lithuanian Workers

Dear Sir:

I have been retained as counsel to the Association of Lithuanian Workers, to whom you sent a notice of proposed designation under Executive Order No. 10450 on July 8, 1953. Your files should also show that on September 8, 1953, the Association wrote you in protest against the proposed designation.

An examination of the Interrogatories attached to your notice of July 8 discloses that aside from those numbered (1), (2) and (3), the Interrogatories are improper in that they are impossible to answer or in that they call for information which it is improper for you to attempt to elicit. For example, the Association does not have the information relating to political beliefs or affiliations called for by Interrogatory (5), (b) and (c), Interrogatory (6), (b) and (c), Interrogatory (7), (c) and (d), and other of the Interrogatories. Aside from this, the Inter-

rogatories violate the First and Fifth Amendments to the Constitution.

So that there may be no misunderstanding, I am writing to advise that the Association desires a hearing pursuant to Title 28, Chapter I, Part 41, Section 41.1 et seq. of the Code of Federal Regulations but does not believe
44 that such a hearing should be conditioned upon responses to Interrogatories (4) to (23), inclusive, and further believes that such a hearing should conform to the requirements of due process, including the right to examine and cross-examine all witnesses.

I would appreciate it if you would consider this as a motion for the withdrawal of the Interrogatories, except Interrogatories (1), (2) and (3) and as a request for a hearing on the Statement of Grounds at which the Association may be advised of the witnesses and testimony against it, have the opportunity to cross-examine such witnesses and to produce evidence in its own behalf. I do not believe that a proceeding at which there is received ex parte evidence, not disclosed to the Association nor subject to cross examination, would constitute a hearing.

Very truly yours,

/s/ Harold I. Cammer

Exhibit 7

45 Filed April 2, 1954

November 25, 1953

Harold I. Cammer, Esquire
9 East 40th Street
New York, New York

Dear Mr. Cammer:

Reference is made to your letter of October 4, 1953, in which you state that you have been retained as counsel

to the Association of Lithuanian Workers. In your letter you request that all interrogatories except interrogatories 1, 2 and 3 be withdrawn and that a hearing be granted to the organization which you represent.

The statement of grounds and interrogatories with respect thereto were forwarded to the Association of Lithuanian Workers and received by it on July 13, 1953. On September 8, 1953, the Association advised the Department that it rejected the hearing provided for under the rules promulgated by the Attorney General in connection with the designation of organizations under Executive Order No. 10450. Your letter of October 4, 1953, was not filed within the sixty day period provided for in the rules. In addition, the request for a hearing contained in your letter was not signed by the executive officers of the Association. Therefore your request for hearing is both not in time and not in proper form.

For your information I am enclosing herewith a copy of the rules promulgated by the Attorney General. You will note that Section 41.3 provides that failure of the organization to file a reply within the sixty days provided therefor shall constitute an acquiescence in designation.

Sincerely,

WARREN OLNEY III
Assistant Attorney General
Criminal Division

Enclosure No. 116785

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46 Filed May 16, 1955

Motion by Defendant for Judgment on the Pleadings, or, in the Alternative, for Summary Judgment

Now comes defendant in the above-entitled action, and upon the complaint, answer and exhibits made a part thereof, moves this Court for judgment on the pleadings,

or, in the alternative, for summary judgment on the ground that there is no genuine issue as to any material fact and defendant is entitled to judgment as a matter of law.

In support of this motion, the Court is respectfully referred to defendant's accompanying memorandum of points and authorities.

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48 Filed August 11, 1955

Order

This cause having come on for hearing upon defendant's motion for judgment on the pleadings, or in the alternative, for summary judgment, and the Court having considered the pleadings, the memorandum submitted by counsel, and the arguments of counsel; it is by the Court, this 11th day of August, 1955,

ADJUDGED, ORDERED and DECREED, that:

The motion of the defendant for judgment on the pleadings be, and the same is hereby granted, and judgment is hereby entered for the defendant.

/s/ BURNITA SHELTON MATTHEWS
Judge